

**Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 71
AGENDA DATE: Thu 11/17/2005
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SUBJECT: Conduct a public hearing relating to the adoption of an ordinance amending Section 9-4-13 (*Aggressive Solicitation Prohibited*), Section 9-4-14 (*Sitting or Lying Down on Public Sidewalks in the Downtown Area Prohibited*), Section 9-4-22 (*Solicitation between Certain Hours Prohibited*), and Section 12-1-27 (*Solicitations Between an Occupant of a Motor Vehicle and a Pedestrian*) of the City Code

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: There is no unanticipated fiscal impact A fiscal note is not required

REQUESTING Management Services
DEPARTMENT:

DIRECTOR'S
AUTHORIZATION: Rudy Garza

FOR MORE INFORMATION CONTACT: Rudy Garza, Assistant City Manager/974-7789, Jennifer Gilchrist, Division Chief, Law Department/974-2508

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

On October 20, 2005, City staff presented a series of proposed amendments to the City's public order ordinances, specifically

- 1 Section 9-4-13 Aggressive Solicitation Prohibited
- 2 Section 9-4-14 Sitting or Lying Down on Public Sidewalks in the Downtown Area Prohibited
- 3 Section 9-4-22 Solicitation between Certain Hours Prohibited
- 4 Section 12-1-27 Solicitations Between an Occupant of a Motor Vehicle and a Pedestrian

This is the second of two public hearings The first hearing took place on October 27, 2005

ORDINANCE NO. 2005-

AN ORDINANCE AMENDING SECTION 9-4-13 RELATING TO AGGRESSIVE SOLICITATION, SECTION 9-4-14 RELATING TO SITTING OR LYING DOWN ON PUBLIC SIDEWALKS, SECTION 9-4-22 RELATING TO SOLICITATION BETWEEN CERTAIN HOURS, AND SECTION 12-1-27 RELATING TO SOLICITATIONS BETWEEN AN OCCUPANT OF A MOTOR VEHICLE AND A PEDESTRIAN; AND CREATING AN OFFENSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The title of Section 9-4-13 and Subsection 9-4-13(C) of the Code are amended to read

§ 9-4-13 ~~[AGGRESSIVE]~~ SOLICITATION PROHIBITED.

(C) A person commits an offense if the person solicits

- (1) in an aggressive manner in a public area,
- (2) in a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers,
- (3) within 25 feet of
 - (a) an automated teller facility,
 - (b) the entrance or exit of a bank, or
 - (c) the entrance or exit of a check cashing business, [e]
- (4) at a marked crosswalk,
- (5) on either side of the street on a block where a school attended by minors or a child-care facility has an entrance or exit;
- (6) at a sidewalk café authorized under Chapter 14-4 (Sidewalk Café) or the patio area of a bar or restaurant, or
- (7) in the downtown business area described in Section 9-4-14 (Sitting or Lying Down on Public Sidewalks in the Downtown Business Area Prohibited) between 7 00 p m and 7 00 a m

PART 2. Subsections 9-4-14(C) and (D) (*Sitting or Lying Down on Public Sidewalks in the Downtown Business Area Prohibited*) of the City Code are amended to read

(C) This section applies in the following area, including the streets and pedestrian rights-of-way that bound the area, ~~[described in Section 12-1-27- (Solicitation between an Occupant of a Motor Vehicle and a Pedestrian),]~~ but does not apply on the campus of the University of Texas.[-]

(1) beginning at the intersection of Cesar Chavez Street and Lamar Boulevard (North),

(2) north on Lamar Boulevard (North) to 29th Street (West),

(3) east on 29th Street (West) to Guadalupe Street,

(4) south on Guadalupe Street to Dean Keeton Street (West/East),

(5) east on Dean Keeton Street (West/East) to IH-35,

(6) south on IH-35 from Dean Keeton Street (East) to Cesar Chavez Street (East), and

(7) west on Cesar Chavez (East/West) from IH-35 to Lamar Boulevard (North), the point of beginning

(D) A person commits an offense if, after having been notified by a law enforcement officer that the conduct violates this section[;]

(1) the person is asleep outdoors, or

(2) the person sits or lies down in the right-of-way between the roadway and the abutting property line or structure, or on an object placed in that area_ ~~[in a manner that would-~~

~~[(1) hinder the unobstructed passage of a person,-~~

~~[(2) require a person to take evasive action to avoid physical contact,~~

~~[(3) block the passage of a person entering or leaving a building, or-~~

~~[(4) require a person entering or leaving a building to take evasive action to avoid physical contact-]~~

PART 3. Section 9-4-22 of the City Code is amended to read

§ 9-4-22 SOLICITATION BETWEEN CERTAIN HOURS PROHIBITED.

A person commits an offense if the person solicits contributions [for a charitable cause] between 7 00 [9-00] p m and 9 00 a m [by telephone or] by going to the door of a residence

PART 4. Section 12-1-27 of the City Code is amended to read

§ 12-1-27 SOLICITATIONS BETWEEN AN OCCUPANT OF A MOTOR VEHICLE AND A PEDESTRIAN.

~~[(A) This section applies in the following areas, including the streets and pedestrian rights-of-way that bound the areas-~~

~~(1) the area-~~

- ~~(a) beginning at the intersection of Cesar Chavez Street and Lamar Boulevard (North);~~
- ~~(b) north on Lamar Boulevard (North) to 29th Street (West);~~
- ~~(c) east on 29th Street (West) to Guadalupe Street;~~
- ~~(d) south on Guadalupe Street to Dean Keeton Street (West/East);~~
- ~~(e) east on Dean Keeton Street (West/East) to IH-35;~~
- ~~(f) south on IH-35 from Dean Keeton Street (East) to Cesar Chavez Street (East); and~~
- ~~(g) west on Cesar Chavez (East/West) from IH-35 to Lamar Boulevard (North); the point of beginning;~~

~~(2) the area-~~

- ~~(a) beginning at the intersection of 45th Street and Duval Street;~~
- ~~(b) north on a line defined by the west curb of Duval Street and extending that line north to Koenig Lane;~~
- ~~(c) east on Koenig Lane and U.S. Highway 290 North Frontage Road to the intersection of Berkman Drive;~~
- ~~(d) south on Berkman Drive to the intersection of 51st Street;~~
- ~~(e) west on 51st Street to the intersection of IH-35;~~
- ~~(f) south on IH-35 East Frontage Road to the intersection of a line defined by the west curb of Clarkson Avenue;~~

~~(g) north along that line to the intersection of 45th Street, and~~

~~(h) west on 45th Street to the point of beginning, and~~

~~(3) the area-~~

~~(a) beginning at the intersection of Second Street (East) and Comal Street,~~

~~(b) south on a line defined by the east curb of Comal Street and extending that line south to the north shore of Town Lake,~~

~~(c) west along the north shore of Town Lake to Waller Creek,~~

~~(d) north along the west shore of Waller Creek to Cesar Chavez Street,~~

~~(e) east on Cesar Chavez Street to the intersection of IH 35,~~

~~(f) north on IH 35 East Frontage Road to the intersection of Second Street (East), and-~~

~~(g) east on Second Street (East) to the point of beginning.]~~

(A) [(B)] The council finds that the distraction of motorists occasioned by a solicitation between an occupant of a motor vehicle and a pedestrian impedes the safe and orderly flow of traffic, causes vehicles to stop unexpectedly, causes vehicles to linger at traffic control devices, and causes motorists to fail to attend to driving. Distracted drivers pose a significant risk of physical injury to motorists and pedestrians.

[(C)] In this section "private parking area" means privately owned property for vehicle parking, and an adjacent driveway, walkway, setback, and landscaped area.]

(B)-[(D)] A person who is in or next to a street or [;] on a sidewalk [; ~~or in a private parking area~~] commits an offense if the person solicits, or attempts to solicit, services, employment, business, or contributions from an occupant of a motor vehicle.

(C) [(E)] A person in a motor vehicle commits an offense if the person solicits, or attempts to solicit, services, employment, business, or contributions from a person who is in or next to a street or [;] on a sidewalk [; ~~or in a private parking area~~].

(D) [(F)] This section does not apply to [-]

~~[(1)]~~ a facility operated by or for the City, and designated by the city manager as a place where the solicitation of employment or services is permitted ~~[-or-~~

~~[(2)] a private parking area unless the owner of the parking area has permanently posted a conspicuous sign at each entrance of the parking area, in both English and Spanish, stating that it is a misdemeanor to engage in solicitation for employment.]~~

(E) ~~[(G)]~~ An offense under this section is punishable by a fine not to exceed \$500

PART 5. This ordinance takes effect on _____, 2005.

PASSED AND APPROVED

_____, 2005

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§
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Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Brown
City Clerk